

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4829 of 1997

and

FIRST APPEAL NO. 4830 OF 1997

and

FIRST APPEAL NO. 1706 OF 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgement?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
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CADILA LABORATORIES LTD.

Versus

AHMEDABAD MUNICIPAL CORPORATION

Appearance:

MS PJ DAVAWALA for appellant in all these appeals.

MR KS JHAVERI for Respondent Municipal Corporation

CORAM : MR.JUSTICE M.R.CALLA and
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 28/04/99

These three Appeals have been filed by the Cadila Laboratories Ltd., against the Ahmedabad Municipal Corporation, in the matter of assessment of the property tax for the years 1991-92, 1993-94, and 1992-93 respectively, passed by the Small Causes Court, rejecting the Company's appeals Nos.4207 of 1994, 4209 of 1994 and 4208 of 1994 on 1st August 1996, 23rd August 1997, and 13th November 1997 respectively. Whereas the matters are between the same parties for different years and the appeals have been decided by identical orders, we propose to decide all these three appeals by this common judgment and order.

2. In all these three matters, the appeals under Section 406 of the BPMC Act as filed by the present appellant Company were decided and rejected on the ground that the same had been filed against the demand made in the bill. The Small Causes Court has noted that no complaint had been filed by the assessee before the Appellate Officer of the Municipal Corporation prior to filing of the appeal under Section 406 and that the appeal against the bill without challenging the order of the Appellate Officer deciding the complaint of the appellant was not maintainable. It has also been observed by the Small Causes Court that the appellant had sufficient opportunity to file complaint before the Commissioner or the Appellate Officer of the Municipal Corporation, but it did not choose to do so and, therefore, the appeal filed against the bill is not maintainable. The learned Counsel for the appellant has filed an affidavit dated 19th April 1999 before this Court stating therein that the appellant had filed objections before the Deputy Commissioner of the Municipal Corporation against the enhancement of municipal tax for the assessment year 1990-91. It has been then stated that thereafter the Company was never afforded opportunity of hearing and without considering the objections filed by the Company, the Deputy Municipal Commissioner by order dated 11th March 1991 fixed the Gross Rateable Value (GRV) of the property at Rs.10,47,755/-. It has been then submitted that against this order dated 11th March 1991 passed by the Deputy Municipal Commissioner the Company had preferred M.V.Appeal No.11322 of 1991 which is still pending before the Small Causes Court. It has been then submitted that so far as the assessment years 1991-92, 1992-93 and 1993-94 are concerned, there was no enhancement in the taxes, no special notice was served upon the appellant and, therefore, the appellant could not prefer any appeal

before the Appellate authority of the respondent Corporation. It has also been submitted in this affidavit that the valuation appeals for the assessment years 1991-92, 1992-93 and 1993-94 have been disposed of by the same order. It has been then stated that on receipt of the bill, the Company had submitted its objections, but on inquiry, it was informed that submissions were made beyond the prescribed time and, therefore, cannot be entertained. However, no details whatsoever in this regard have been given as to on what date the objections were filed, what was the last date for filing the objections etc. We find that the averments made in this affidavit particularly in para 5 are absolutely vague and even this affidavit lacks the necessary averments on the basis of which the appellant seeks to challenge the present impugned orders before us. In the facts and circumstances of this case, it cannot be held that the observations made by the Small Causes Court are factually incorrect. If at all the objections had been filed and any order had been passed thereon by the Municipal Corporation on the objections of the Company, the Company could have applied for copy of such order so as to challenge the same. Even the pendency of the Municipal Valuation Appeal No.11322 of 1991 about which the reference has been made in para 2 of the affidavit dated 19th April 1999 by which the GRV was fixed at Rs.10,47,755/- for the year 1991-92, is no impediment in deciding the present appeals because, these appeals have been decided on the basis that the appeals were not maintainable against the demand made in the bill. It is settled that the demand in the bill is only consequence of some order which had already been passed in the past. The order of assessment is the basic order and the demand made in the bill is a consequence thereof. Unless the basic order is challenged, there is no question of challenge to the consequence. It is not the case of the appellant in any of these three appeals before us that they had applied for copy of any such order made by the Municipal Corporation on the objections, if any, filed by the Company and that yet the Municipal Corporation declined to supply the same. In the facts and circumstances of this case, we do not find that the impugned orders passed in any of these three appeals suffer from any infirmity so as to warrant any interference of this Court in appeals, more particularly, when it has been categorically stated in the body of the impugned order itself that no complaint had been filed and yet the appellant in each of these matters has failed to give the date of the objections and the copy of objections had not been placed on record and it is not the case of the appellants that the copy of the order on

such objections wasw applied for but was not given.

3. We do not find any substance in any of these three appeals. The same are hereby dismissed. No order as to costs.

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